NO. 85-236

Supreme Court, U.S.
FILED
MAR 27 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

HARRY EICHENLAUB, Warden Clinton County Jail
Petitioner

v.

DAVID ALAN YURKY, MR. ZIMMERMAN, Warden SCI at Huntingdon, MR. WICKER, Deputy Superintendent SCI at Huntingdon,
Respondents

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

JOINT APPENDIX

JOHN C. YOUNGMAN, JR.
Counsel of Record
CANDOR, YOUNGMAN, GIBSON & GAULT
23 West Third Street
P.O. Box 1507
Williamsport, PA 17703
(717) 322-6144
Counsel for Petitioner

AMY ZAPP, Deputy Attorney General
Office of Attorney General
Criminal Justice Agencies
1512 Strawberry Sq.
Harristown Bldg. #1
Harrisburg, PA 17102
(717) 783-1471
Counsel for Mr. Wicker & Mr. Zimmerman

DAVID RUDOVSKY
Counsel of Record
10th Floor
121 North Broad Street
Philadelphia, PA 19107
(215) 568-3190
Counsel for David Alan Yurky

Petition for Certiorari filed August 8, 1985
Certiorari granted January 13, 1986

153 pp

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

TABLE OF CONTENTS

	Page
Docket Entries - United States Court of Appeals for the Third Circuit, Docket No. 84-5636.....	2
Complaint.....	22
Statement of Undisputed Material Facts Pursuant to L.R.M.D. Pa. 401.4.....	45
Response of Plaintiff Yurky to Defendant Eichenlaub's Statement of Undisputed Material.....	53
Affidavit of Harry W. Eichenlaub..	58
Defendant Harry Eichenlaub's Answers to Interrogatories of Plaintiff.....	60
Affidavit of David Yurky.....	83
Affidavit of David Yurky.....	87
Second Affidavit of David Yurky...	92

TABLE OF CONTENTS-Continued

	Page
Declaration of Charles H. Zimmerman.....	95
Declaration of Charles H. Zimmerman.....	99
Defendant Harry W. Eichenlaub's Response to Declaration of Defendant Charles H. Zimmerman..	102
Declaration of Emanuel C. Wicker..	103
Defendant Harry W. Eichenlaub's Response to Declaration of Defendant Emanuel C. Wicker.....	106
Response to Defendants Zimmerman and Wicker to Plaintiff's Statement of Undisputed Facts Material.....	107
Response to Statement of Undisputed Facts of Plaintiff Yurky.....	112

TABLE OF CONTENTS-Continued

	Page
Declaration of Curtis C. Carson...	115
Declaration of Glen R. Jeffes.....	122
Declaration of Benny E. Varner....	127
Declaration of Terry W. Henry.....	129
Letter of Ronald J. Marks dated August 10, 1981.....	134
Notice of Judgment.....	159

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Docket No. 84-5636

DAVID ALAN YURKY,
Appellant

v.

HARRY EICHENLAUB, Warden Clinton County Jail, MR. ZIMMERMAN, Warden SCI at Huntingdon, MR. WICKER, Deputy Superintendent SCI at Huntingdon,
Appellees

(D.C. Civil No. 82-0663)

RELEVANT DOCKET ENTRIES

DATE	NR.	FILINGS-PROCEEDINGS
1982		
May 26	1	COMPLAINT-
" "		NOTICE & CONSENT FORM-re Magistrate Referral mailed to Yurky from Scranton.
" "	2	AFFIDAVIT/DECLARATION-in support of request to proceed in forma pauperis. Copy of docket sheet to Judge Conaboy.
June 1	3	MEMORANDUM-of law dated 5/28/82
" "		ORDER-dated 5/28/82 that (1) Plaintiff's request to proceed IFP is granted. (2) Defendants Brown and Gilmore are dismissed from this action. (3) The Clerk of Court is directed to issue service of process upon all named Defendants, except Brown and Gilmore. (C) Copies to Petitioner and Defendants.

DATE	NR.	FILINGS-PROCEEDINGS
1982		
June 2	4	SUMMONS-issued along with copies of Complaint and Order and hand delivered to the U.S. Marshall in Scranton to be served on named Defendants, Eichenlaub, Zimmerman and Wicker.
June 11	5	PRAECIPE-for entry of appearance of Gregory R. Neuhauser, Deputy Attorney General for Defendants Zimmerman & Wicker.
June 22	6	ANSWER-of Defendants Zimmerman and Wicker, to Plaintiff's Complaint, and C. of S.
June 28	7	ANSWER-of Defendant, Harry Eichenlaub, Warden Clinton County Jail, and C. of S.
June 30	8	DEMAND FOR TRIAL-of Defendants by jury on all issues so triable of Right pursuant to Rule 38 of the Fed. Rules of Civil Procedure; C. of S.

DATE	NR.	FILINGS-PROCEEDINGS
1982		
June 30		SUMMONS-returned served on Harry Eichenlaub on 6/7/82, (MF&E$16.92); on Mr. Zimmerman on 6/8/82, (MF&E$3.00); on Mr. Wicker on 6/8/82, (MF&E$22.20); and on Attorney General on 6/10/82, (MF&E$3.00).
July 23	9	INTERROGATORIES-of Plaintiff to be answered by Defendant, Harry Eichenlaub.
" "	10	MOTION-of Plaintiff (unsigned) to receive copy of Federal Rules of Civil Procedure in forma pauperis.
Nov. 18	11	PETITION-of Gregory R. Neuhauser for leave to withdraw appearance.
" "		APPEARANCE-of Amy Zapp as counsel for Defendants, and C. of S.
Nov. 23		APPROVED-of withdraw, by the Court, copies to counsel from Scr.

DATE	NR.	FILINGS-PROCEEDINGS
1982		
Dec. 17	12	MOTION-of Defendants Zimmerman and Wicker, for enlargement of time in which to conduct discovery
" "		CERTIFICATE-of NonConcurrence, and C. of S.
" "	13	BRIEF-in support of Defendants', Zimmerman and Wicker, Motion for enlargement of time in which to conduct discovery, and C. of S.
Dec. 21		ORDER-that the time period in which discovery must be completed in case shall be extended by 3 additional months until March 23, 1982. (C)
1983		
Feb. 11	14	MOTION-of Plaintiff for an Order compelling discovery directed to Defendant Eichenlaub. Copy to Zapp and Youngman, Jr.
Mar. 9	15	MOTION-of Defendants to compel discovery

DATE	NR.	FILINGS-PROCEEDINGS
1983		
Mar. 9		CERTIFICATE-of NonConcurrence, and C. of S.
" "	16	BRIEF-of Defendants in support of Motion to compel discovery pursuant to Rule 37(a)(2) of the F.R.C.P., with exhibit attached and C. of S. (on Motion).
Mar. 15	17	PRACTICE-Order of Court calling the attention of the parties to the Local Rules of Court 401.5 through 401.8 and Fed. Rule of Civil Procedure 56. Copy to Plaintiff and Attorneys Zapp and Youngman, Jr.
Mar. 24	18	MEMO-of law
" "		ORDER-(1) Plaintiff's motion to compel discovery be and is granted; (2) the motion of Defendants, Zimmerman and Wicker, to compel discovery be and is granted; (3) this Order shall be complied with and all other discovery in

DATE	NR.	FILINGS-PROCEEDINGS
1983		
		this matter shall be completed on or before 4/8/83. (C) Copies to Plaintiff and counsel.
Apr. 6	19	ANSWERS-of Defendant, Harry Eichenlaub, to Interrogatories of Plaintiff; and C. of S. therein.
Apr. 8	20	REQUEST-of Plaintiff for Discovery of Documents directed to Defendant Eichenlaub, and C. of S.
" "	21	REQUEST-of Plaintiff for discovery of documents directed to Defendants, Zimmerman and Wicker, and C. of S.
" "	22	INTERROGATORIES-propounded by Plaintiff to be answered by Defendants, Zimmerman and Wicker, and C. of S.
Apr. 20	23	MOTION-of Defendants, Zimmerman and Wicker, for a Protective Order pursuant and to Rule 26(c) of the Fed. Rules of Civil Procedure.

DATE	NR.	FILINGS-PROCEEDINGS
1983		
Apr. 20		CERTIFICATE-of NonConcurrence; C. of S.
" "	24	BRIEF-in support of the Motion by Defendants, Zimmerman and Wicker, for a Protective Order pursuant to Rule 26(c) of the Fed. Rules of Civil Procedure; C. of S. in Doc #23.
Apr. 21	25	MOTION-of Plaintiff to Amend Complaint to include additional Defendants.
" "		BRIEF-in support of Motion to Amend Complaint, and C. of S.
May 2	26	BRIEF-of Plaintiff in opposition to Defendants' Motion for a Protective Order w/attachment and C. of S.
May 4	27	ORDER-A pretrial conference in action has been scheduled for Friday, May 20, 1983 at 2:30 P.M. in Chambers, U.S. Courthouse, Scranton, Pa. The Superintendent of the

DATE	NR.	FILINGS-PROCEEDINGS
1983		
		State Correctional Institution at Huntingdon, Pa. is hereby directed to produce the Plaintiff, David Alan Yurky, for this conference, to keep the prisoner safe in custody and, at the conclusions of the conference to return the prisoner to his place of confinement prior to the conference. (C) Copies to Plaintiff, Attorney General, Attorney Youngman and Superintendent at Huntingdon. - Courtesy copy to U.S. Marshall
May 3	28	BRIEF-of Defendant Eichenlaub, in opposition to the Motion to Amend Complaint to join Additional Defendants, and C. of S.
" "	29	MOTION-of Defendant Eichenlaub, for Protective Order prohibiting further production of documents in this matter, and C. of S.

DATE	NR.	FILINGS-PROCEEDINGS
1983		
May 3	30	BRIEF-of Defendant Eichenlaub, in support of Motion for Protective Order, and C. of S.
May 5	31	C OF N-of John C. Youngman, Jr., Attorney for Defendant, Harry Eichenlaub, hereby certify that concurrence in the instant motion was not sought or obtained from Plaintiff because he is a resident of a correctional institution who is proceeding Pro Se.
May 4	32	NOTICE-that pretrial conference is set for May 20, 1983 at 2:30 P.M. in Chambers in Scr., Pa. Because the matter involves pro se incarcerated litigants, the Court does not feel it practicable to require full compliance with the directions in the Local Rules of Court regarding the submission of pretrial Memorandum. The Court will, however, require the parties to submit, no less

DATE	NR.	FILINGS-PROCEEDINGS
1983		
		than 2 days prior to the conference, a short and plain statement of the facts and a brief description of the damages claims. Counsel's attention is specifically directed to Local Rule of Court 408.2 (C) Copy to Plaintiff, DAG Zapp and Attorney Youngman.
May 6	33	BRIEF-of Defendants in opposition to Defendants' motion to amend the Complaint, and C. of S.
May 16	34	BRIEF-of Plaintiff in opposition to Defendants' motion for protective order and C. of S.
May 17	35	STATEMENT-of Facts by Defendants, Zimmerman and Wicker, C. of S.
May 18	36	STATEMENT-of Facts filed by Plaintiff. Copy to Zapp and Youngman, Jr.
May 23	37	P/T MEMO-of Defendant Eichenlaub, and C. of S.

DATE	NR.	FILINGS-PROCEEDINGS
1983		
May 24	38	NOTICE-to counsel from C's setting pretrial/settlement conference for 7/11/83 in Scr. chambers at 11:30 A.M. CC to Yurky and counsel from CO.
June 27	39	ORDER-of Court, pretrial conference scheduled for Monday, 7/11/83 at 11:30 A.M. in Chambers at Scr., Pa. Superintendent of SCI at Huntingdon is hereby directed to produce Plaintiff, David Alan Yurky, for this conference. (C) Copy to Yurky, DAG Zapp, Attorney Youngman, Superintendent at Huntingdon from Scr.
July 11	40	MIN SHT-of pretrial conference in Scr. on 7/11/83.
July 12	41	ORDER-(1) Defendant Eichenlaub's motion for a protective order be and is denied. (2) The motion of Defendants, Zimmerman and Wicker, for a protective order be and is denied.

DATE	NR.	FILINGS-PROCEEDINGS
1983		
		(3) Defendants be and are granted an extension of time until August 1, 1983 to answer Plaintiff's interrogatories and requests for production of documents. (4) Plaintiff shall respond, if he so chooses, to Defendants' answers within ten days of his receipt of them. Copies to Yurky, Zapp and Youngman, from Scr. (C).
July 27	42	RESPONSE-of Defendants, Zimmerman and Wicker, to Plaintiff's Request for Production of Documents, and C. of S.
Aug. 1	43	ANSWERS-of Defendants, Zimmerman and Wicker, to Plaintiff's first set of interrogatories and C. of S.
1984		
April 2	44	MOTION-of Plaintiff for partial summary judgment

DATE	NR.	FILINGS-PROCEEDINGS
1984		
April 2		MEMO-of Plaintiff in support of motion for partial summary judgment, and C. of S.
April 11	45	MOTION-of Plaintiff for sanctions against Defendant Eichenlaub, for his failure to comply with discovery previously ordered by the Court.
" "		BRIEF-of Plaintiff in support of Plaintiff's motion for sanctions against Defendant Eichenlaub, for his failure to comply with discovery previously ordered by the Court, and C. of S.
April 20	46	RESPONSE-of Defendant, Harry W. Eichenlaub, to request for production; C of S.
" "	47	BRIEF-in opposition to Plaintiff's Motion for sanctions and C. of S. therein.

DATE	NR.	FILINGS-PROCEEDINGS
1984		
April 17	48	MOTION-of Defendants, Zimmerman and Wicker, for an enlargement of time in which to file declaration in support of Defendant's cross-motion for summary judgment.
" "		DECLARATION-of Defendant, Charles H. Zimmerman; cert of nonconcurrence. C. of S.
April 16	49	CROSS-MOTION-of Defendants, Zimmerman and Wicker, for summary judgment pursuant to FRCP 56; cert of nonconcurrence; C. of S.
" "	50	BRIEF-of Defendants, Zimmerman and Wicker, in opposition to Plaintiff's motion for partial summary judgment and in support of cross-motion of Defendants for summary Judgment. C. of S. per motion.
April 30	51	BRIEF-of Plaintiff in opposition to cross-motion of Defendants, Zimmerman and Wicker, for summary judgment.

DATE	NR.	FILINGS-PROCEEDINGS
1984		
April 30		RESPONSE-to Commonwealth Defendant's Statement of Undisputed material.
" "		AFFIDAVIT-of David Yurky, C. of S.
May 10	52	MOTION-of Defendant Eichenlaub, for summary judgment; cert of nonconcurrence; cert of partial concurrence. C. of S.
" "	53	MOTION-of Defendant Eichenlaub, to be allowed to file brief in opposition to motion for summary judgment out of time; cert of concurrence; cert of nonconcurrence. C. of S.
" "	54	BRIEF-of Defendant Eichenlaub, in opposition to Plaintiff's motion for partial summary judgment and in support of Eichenlaub's motion for summary judgment. C. of S.
" "	55	STATEMENT-of Defendant Eichenlaub, of undisputed facts pursuant to L.R. M.C. Pa. 401.4 C. of S.

DATE	NR.	FILINGS-PROCEEDINGS
1984		
May 10	56	RESPONSES-of Defendant Eichenlaub, to affidavits of David Alan Yurky. C. of S.
" "	57	RESPONSE-of Defendant Eichenlaub, to declaration of Defendant, Wicker. C. of S.
" "	58	RESPONSE-of Defendant Eichenlaub, to declaration of Defendant Zimmerman. C. of S.
" "	59	RESPONSE-of Defendant Eichenlaub, to declaration of Terry W. Henry filed by Defendants, Wicker and Zimmerman. C. of S.
" "	60	RESPONSE-of Defendant Eichenlaub, to statement of undisputed facts of Plaintiff Yurky. C. of S.
" "	61	RESPONSE-of Defendant Eichenlaub, to statement of undisputed material of Defendants, Zimmerman and Wicker. C. of S.

DATE	NR.	FILINGS-PROCEEDINGS
1984		
May 10	62	RESPONSE-of Defendant Eichenlaub, to declaration of Benny E. Varner. C. of S.
" "	63	MOTION-of Commonwealth Defendants for an enlargement of time in which to submit reply brief; cert of concurrence and nonconcurrence. C. of S.
May 11	64	R/BRIEF-of Defendants, Zimmerman and Wicker, and C. of S.
May 14	65	CORRECTED REPLY BRIEF-of Defendants, Zimmerman and Wicker, correcting a few minor typographical errors and omissions; Letter of service stating copy to Plaintiff and county Defendant.
May 30	66	BRIEF-of Plaintiff in opposition to Defendant, Harry W. Eichenlaub's, motion for summary judgment.

DATE	NR.	FILINGS-PROCEEDINGS
1984		
May 30		RESPONSE-of Plaintiff Yurky to Defendant Eichenlaub's statement of undisputed material, and, second affidavit of David Yurky, and C. of S.
May 31	67	MOTION-of Commonwealth Defendants for leave to submit second reply brief. Cert. of concurrence and C. of S.
" "	68	BRIEF-of Commonwealth Defendants in support of motion for leave to submit second reply brief. C. of S.
" "	69	SECOND REPLY BRIEF- of Commonwealth Defendants. C. of S.
June 11	70	OPPOSITION-of Plaintiff to Commonwealth Defendants' 2nd reply brief filed out of time w/affidavit and C. of S. attached.
Sept. 7	71	MEMO/ORDER-in accordance with the accompanying Memorandum, it is ordered that (1) The Defendants'

DATE	NR.	FILINGS-PROCEEDINGS
1984		
		motion for summary judgment is granted. (2) Judgment in favor of the Defendants is hereby entered and the Clerk of Courts is directed to close this case. Copies to Yurky, Zapp and Youngman from Scr. Orig in vault. (C).
Sept. 19	72	NOT/APPEAL-filed by petitioner from the Order and Judgment granting Summary Judgment for the Defendants entered on September 7, 1984
" "		MOTION-therein to proceed on appeal in forma pauperis.
" "		AFFIDAVIT-of petitioner in support of Motion to proceed in forma pauperis. C. of S. Copy of Notice to Plaintiff, DAG Zapp, Attorney Youngman, Jr., with T/L to Court with Motion and Affidavit and T/L; to Court of Appeals with T/L, C/C of docket, C/C of Order of 9/7/84 and C/C of Order of 6/1/82.

DATE	NR.	FILINGS-PROCEEDINGS
1984		
Sept. 21	73	ORDER-(1)Petitioner Yurky is granted in forma pauperis statute for purpose of his appeal from adverse judgment of this Court (C) CC to Yurky and counsel from Clerk's office.
Sept. 26		DISTRICT COURT RECORD COMPLETE FOR PURPOSES OF APPEAL. RECORD ON APPEAL-mailed to Court of Appeals consisting of docs. 1-73 w/TL#2 and cert cc of docket.
Sept. 25	74	DOCKETING LETTER-of Ct. of Appeals docketing case to 84-5636. C. of S.
Oct. 1	75	RECEIPT-from Ct. of Appeals for record on appeal.

FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT UNDER THE CIVIL RIGHTS ACT, U.S.C. §1983

[Filed May 20, 1982]

In the United States District Court
for the
Middle District of Pennsylvania

DAVID ALAN YURKY	:	
	:	
v.	:	NO.: 82-0663
	:	
HARRY EICHENLAUB, CARSON BROWN, DAVID GILMORE, et al.	:	

I. Previous Lawsuits

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes_____ No__x__

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the

additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit

   Plaintiffs:_____

   Defendants:_____

2. Court (if federal court, name the district; if state court, name the county):

   _____

3. Docket Number:_____

4. Name of judge to whom case was assigned_____

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)_____

6. Approximate date of filing lawsuit:_____

7. Approximate date of disposition:_____

II. Place of Present Confinement: Huntingdon

A. Is there a prisoner grievance procedure in this institution?

Yes x No_____

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure:
Yes_____ No__x__

C. If your answer is YES:

1. What steps did you take:

_____

2. What was the result?

_____

D. If your answer is NO, explain why not: At the Program Review Committee meeting, they denied my oral arguments and therefore became defendants.

III. Parties

(In Item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any).

A. Name of plaintiff:
David Alan Yurky

Address: Drawer R, Huntingdon, Pennsylvania, 16652

(In Item B below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use item C for the names, positions, and places of employment of any additional defendants).

B. Defendant (1) Harry Eichenlaub is employed as Warden at Clinton County Jail - Lock Haven, Pa.

C. Additional Defendants (2) Carson Brown - Judge - Clinton County

(3) David Gillmore - Magistrage - Mill Hall, Pa.

(4) Mr. Zimmerman - Warden - SCIH

(5) Mr. Wicker - Dept. Supt. - SCIH

(6) Program Review Committee of Jan. 11th - SCIH

(7) Two unnamed Clinton County Jail guards - Lock Haven, Pa.

IV. Statement of Claim:

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheet if necessary).

I was arrested December 23rd, 1981 in Mill Hall, Clinton County and charged with conspiracy and criminal complicity. I was arraigned before District Magistrate David Gillmore and bail was set at one hundred thousand dollars. Unable to post bail, I was taken to Clinton County jail. Due to a continuance granted the Commonwealth, I did not get a Preliminary Hearing until January 8th, 1982. From the day of my arrest until the day of my Preliminary Hearing, I was held in Clinton County jail in Lock Haven, Pa., and obeyed all officers and rules therein. (See additional pages)

V. RELIEF

State briefly exactly what you want the court to do for you.

1. Compensatory damages of twelve thousand dollars each against Eichenlaub, Brown and Gillmore.

2. Punitive damages against Eichenlaub, Brown and Gillmore appropriate to deter future violations of constitutional rights.

3. Compensatory damages of five thousand dollars each against Zimmerman, Wicker and the individual Jan. 11th PRC members

4. Compensatory damages of four hundred dollars each against two unnamed Clinton County jail guards.

5. Injunction against future transfer of pre-trial detainees to Huntingdon.

6. Court-appointed representation.

Signed this 6th day of May, 1982.

/s/ David Alan Yurky

Executed at SCI Huntingdon, Huntingdon

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 6, 1982

/s/ David Alan Yurky

My preliminary hearing was held January 8th in Mill Hall, Pa. before Magistrate Gillmore and both the conspiracy and the complicity charge were bound over to Court. Immediately following the preliminary hearing, two State College, Pa. detectives came into the hearing room and arrested me, charging me with two robberies. I was taken into a back room where Magistrate Gillmore tentatively set my bail on those two robbery charges at two hundred thousand dollars. The two State College detectives then took me straight to Centre Hall, Pa. for arraignment before District Magistrate Keith Bierly, who continued bail at two hundred thousand dollars. I was then taken to the State College Municipal Building for fingerprinting. On the way to the State

College Municipal building I heard one of the State College detectives talk over the CB radio and the person he was talking to said he would meet them at the State College Municipal Bldg. with my personal belongings from my cell in the Clinton County jail. This was how I first learned that I was to be taken to the Huntingdon Penitentiary. After my fingerprinting at the State College Municipal Bldg., the two unnamed Clinton County jail guards appeared and took custody of me and said I was being taken to Huntingdon. They explained that the warden at Clinton County jail had decided to transfer me to Huntingdon Penitentiary because my bail was too high. I said I thought I had to have some kind of a hearing before I could be transferred; they said that was usually the case, but

that I wasn't getting any hearing that day. They said they had gotten my personal belongings from the Clinton County jail, which I later discovered to be untrue. Upon arrival at Huntingdon Penitentiary I was placed in Administrative Custody and given a yellow misconduct sheet which said "Security Risk See Attached Sheet", but there was no attached sheet.

Three days later on Jan. 11th I was seen by the Program Review Committee. I do not know who any of the members of that Committee were, but I believe the Institution keeps records of items like that. They said it was their understanding that they were holding me for the Federal authorities and that the Federal authorities would be there either that night (Monday) or the next (Tues.

12th). I do not know what their source of information was on that. They said I would be placed in Administrative Custody until then but that in the event that the Federal authorities didn't show that I then would be re-evaluated by the Program Review Committee. I received no copy of the proceedings. I was held in Administrative Custody-Maximum until Feb. 10th. During my time in Administrative Custody I made repeated requests for additional phone calls for legitimate legal purposes, but was consistently denied. I was unable to contact alibi or material witnesses for either of my two subsequent preliminary hearings; character witnesses for my bail reduction hearing; or either of my two different attorneys in order to provide input for the bill of particulars, discovery

motions, or any defense as to witnesses against me during this critical pre-trial period. I eventually petitioned the Deputy Supt. of Operations Wicker, citing many of the same reasons mentioned above, and was granted one additional completed call. I also wrote to Deputy Wicker, stating that I believed that no Federal authorities were coming for me as per the Jan. 11th PRC meeting believed and that unless Huntingdon had information to the contrary, I asked for release to a less restricted housing unit where I would have access to telephone privileges. I received no response.

Transferring David Yurky from Clinton County jail to a maximum security prison was not justified by any fact. Warden Eichenlaub acted willfully and maliciously in transferring David Yurky

without notification, without a hearing, and without even his personal clothing. Eichenlaub's labeling of David Yurky as a security risk was not related to any behavior on Mr. Yurky's part, but based solely on the high amount of bail imposed by a local magistrate. High bail, absent any other evidence indicating Mr. Yurky to be a security risk, is not sufficient justification for the deprivation of Mr. Yurky's constitutional rights which took place. Mr. Yurky was charged with conspiracy; had not injured or threatened anyone; had not resisted arrest; and had no history of escape. During Mr. Yurky's seventeen days at the Clinton County jail, he went along with the program. Warden Eichenlaub's exaggerated response to a security consideration was overly reactive and violated Mr. Yurky's due

process rights. Warden Eichenlaub's actions destroyed the presumption of innocence implying that Mr. Yurky was so dangerous and so guilty that he must be confined in a maximum security prison or he would surely not appear at trial. There is nothing in Mr. Yurky's behavior during the seventeen days in Clinton County jail or in his past record to justify Warden Eichenlaub's actions. Warden Eichenlaub acted maliciously and without regard for any of Mr. Yurky's constitutionally protected rights (1. access to counsel; 2. freedom from deprivation of liberty without due process; 3. freedom from punishment without due process; 4. freedom from arbitrary action of government) when he willfully and with sneaky character transferred David Yurky with no notification, hearing or personal

clothing to a maximum security prison seventy-five miles away when a far more rational alternative of sending him to the Centre County jail less than thirty miles away existed.

Mr. Yurky suffered damages when he was subsequently forced to appear at a preliminary hearing in Centre County wearing prison-issued clothing from Clinton County jail. He also suffered damages to defense preparation by being separated seventy-five miles from the Clinton County Public Defender's Office. He also suffered mental and emotional duress due to his confinement and punishment, with all presumption of innocence destroyed, in a maximum security prison when Mr. Yurky knew he was not guilty of the crimes for which he was sent there.

As to Judge Carson Brown's involvement, he obviously was consulted and authorized the transfer. He knew David Yurky had not yet had a trial and was not a parole violator. He could reasonably have been expected to know that incarcerating me in a maximum security prison seventy-five miles away, rather than the county jail three blocks away, would restrict my access to the Public Defender's office and to his Court. Yet he consistently ordered and re-ordered me brought from, and returned to Huntingdon Penitentiary in violation of my due process rights. He had the authority and he had several opportunities to put an end to my illegal incarceration once the initial hysteria of the case died down, but chose not to act. He knew I was a pretrial detainee and never at any time did

he have any evidence in front of him to indicate that I would not be available for trial. Judge Brown's arbitrary "sentencing" me to Huntingdon without a trial constituted punishment without due process and deprivation of liberty without due process.

Magistrate David Gillmore violated David Yurky's rights by arbitrarily and maliciously setting ridiculously high bail. He first set bail at one hundred thousand dollars on a conspiracy charge; then later set an additional two hundred thousand dollars for two robbery charges. By denying me bail, he mandated that I not be released from custody. Mr. Yurky has no history of escape; no evidence was presented that he would not be available for trial; and Mr. Yurky neither injured anyone nor resisted arrest in any of the

alleged crimes. Magistrate Gillmore's action of effectively denying David Yurky bail constituted arbitrary action of government and denied Mr. Yurky due process and the opportunity to prepare a defense. His actions also destroyed the presumption of innocence in that by setting an incredible amount of bail, far exceeding almost anyone's capacity to raise, the implication was that David Yurky was definitely guilty and must not be permitted to return to society even for a moment.

Warden Zimmerman violated my rights when he (or his subordinates who in this case he must be held responsible for) accepted me as a security risk at a maximum security prison on a measly conspiracy charge. I was labeled a security risk without any evidence or

justification either then or since. Policy of accepting pre-trial detainee should have heeded to have been based on presentation of evidence that Mr. Yurky was in fact a security risk. No evidence was ever presented or in fact exists. Warden Zimmerman's taking of the enormous step of accepting into a maximum security prison a man who hadn't even had a trial yet, and subsequent placement of that man both in Administrative Segregation and then general population violated David Yurky's due process rights where no evidence existed or was present that he was in fact a security risk. Warden Zimmerman then further violated Mr. Yurky's rights by restricting his access to counsel and the Courts. Huntingdon Penitentiary is clearly not set up with the interests of pre-trial detainees in

mind. Phone call procedure in Administrative custody - one call every thirty days - is inadequate and denied my effective assistance of counsel during critical pre-trial stage. Also, calls were made only during evening hours 6 PM to 9 PM and most lawyers have no evening office hours. Phone procedures in general population were better, but still too inflexible. Procedure was done by cell rotation and one had no control over the day of the cell. Frequently there would be no calls during office hours left on the list by the time the guard came to your cell. If your rotation came up on an evening call and then on a weekend day, you could go all week without an opportunity to call your lawyer. Getting a special call at certain time of day was possible, but tough;

and it frequently would be necessary to compete with other inmates, many of whom did not like being competed with. My main complaint is the inflexibility, not at all suitable to the multi-variate needs of defense preparation.

The Program Review Committee of Jan. 11th, 1982 violated David Yurky's due process rights by placing him in Administrative Segregation without justification. Procedural safeguards were not followed as Mr. Yurky received no written notification of why he was being placed there and no evidence was presented justifying that placement. I have no idea who the members of that particular committee were, but their names can probably be truthfully determined from Institutional records. Their stated impression that I might be being held for

the Federal authorities could have been confirmed or refuted by phone within minutes, but was inexplicably never done. Classification of David Yurky as a security risk without evidence or justification and placement in Administrative Segregation denied Mr. Yurky his constitutionally protected rights to freedom from deprivation of liberty without due process, freedom from punishment without due process, and also denied him access to counsel and irreparaby damaged his ability to present a defense at his preliminary hearing in Centre County.

Deputy Wicker violated my rights when he ignored my request to be released from my illegal detention in Administrative Segregation. He was apprised by me of my situation, and he had the opportunity to check into the facts and remedy my ille-

gal situation. He instead chose to ignore my request and thus participated in the decision to deprive me of my liberty without due process to punish me without due process, and to impair my ability to communicate with counsel and prepare a defense.

The two unnamed Clinton County jail guards violated my rights when they chained and manacled me and took me to a maximum security prison when they knew I had not had a trial. They knew that minimal procedural safeguards had not been followed and acted maliciously in presenting me to the Huntingdon authorities as a "security risk" when their own observations of my behavior at Clinton County jail contradicted that assessment. They transferred me without allowing me to get my personal clothing which

necessitated my making two subsequent court appearances in Centre County dressed in "prison garb". The two unnamed Clinton County jail guards assisted Warden Eichenlaub in depriving me of my rights of access to counsel and to freedom from arbitrary punishment without due process. The names can probably be truthfully determined from work records at the Clinton County jail.

(Title Omitted in Printing)

STATEMENT OF UNDISPUTED MATERIAL FACTS PURSUANT TO L.R.M.D. PA. 401.4

Defendant Harry W. Eichenlaub by his attorneys, Candor, Youngman, Gibson & Gault, respectfully submit the following statement of material facts which are not in dispute:

1. For all times relevant to this action, David Alan Yurky, was an inmate confined to the State Correctional Institution at Huntingdon, Pennsylvania (SCI-Huntingdon) having been transferred to SCIH on an emergency basis from the Clinton County Jail (CCJ).

2. For all relevant times Yurky was a pretrial detainee and was classified as an HVA (Hold for Various Authorities).

3. For all relevant times, Defendant

Charles H. Zimmerman and Emmanuel C. Wicker, were employed by the Pennsylvania Bureau of Correction (BOC) as respectively, the Superintendent and Deputy Superintendent for Operations at SCI-Huntingdon.

4. Yurky arrived at SCI-Huntingdon at approximately 9:00 p.m., Friday, January 8, 1982.

5. At that time, he was given a copy of a BC-141D on which was indicated "security risk -- see attached".

6. The BC-141D also stated that he would be placed in Administrative Custody (Maximum) until such time as he could be seen by the SCI-Huntingdon's Program Review Committee (PRC).

7. At the time the BC-141D completed for Yurky on January 8, 1982, was prepared, the JBC-7X and JBC-185 forms which

accompanied Yurky to SCI-Huntingdon were attached to that form; copies of those attachments were not appended to Yurky's copy of the BC-141D or given to him in time, in accordance with the applicable standard institutional procedures.

8. That document also stated that the FBI would be arriving on January 11, 1982, to take Yurky for arraignment on bank robbery charges.

9. Pursuant to standard BOC policies concerning HVA in force at the time, Yurky was placed in Administrative Custody until he could be seen by the PRC.

10. The PRC at SCI-Huntingdon did not meet on weekends.

11. Yurky was seen by the PRC on Monday, January 11, 1982.

12. When seen by the PRC, Yurky was told that he was being transferred to SCI-Huntingdon as a security risk but was not informed of the underlying reasons for such transfer.

13. The JBC-7X which accompanied Yurky stated that he was a security risk and recommended a custodial classification of "maximum security."

14. In its personal interview with Yurky on that date, the PRC advised Yurky that it had information that the FBI would be arriving that day to take him for arraignment on bank robbery charges.

15. The PRC continued Yurky in Administrative Custody (Maximum).

16. Eichenlaub was informed by Deputy Commissioner DeRamus on January 8, 1982, that inasmuch as this was an emergency transfer, "a hearing will be held later."

17. Clinton County Jail was and is a minimum security institution, as is Centre County Jail.

18. On May 19, 1982, Plaintiff began trial on the robbery, conspiracy, and criminal complicity actions. On May 19, 1982, he was convicted of these crimes and is presently serving a sentence at SCI-H.

19. All of the allegations of Plaintiff's Complaint alleging deprivation of constitutional rights and right to any kind of liability are denied by Defendant Eichenlaub's Answer.

20. Eichenlaub received permission to transfer Plaintiff to SCI-H while Plaintiff was at a Preliminary Hearing at State College, Pennsylvania.

21. Eichenlaub harbors no ill will toward the Plaintiff, and at all times,

he has acted the good faith belief that his actions were lawful.

22. On December 23, 1981, Defendant Eichenlaub was informed by Pennsylvania State Police Troopers Robert Drumm and Steven Toboz that Plaintiff Yurky had a high bail bond, that Plaintiff Yurky was experienced in martial arts, and that Plaintiff Yurky had ties to the Palestine Liberation Organization.

23. On January 8, 1982, Defendant Eichenlaub was informed by Detective Musser of the State College Police Department that Plaintiff Yurky had an alleged passport to Lebanon, that there were new charges, that Plaintiff's bail would be set at an additional $200,000, and was informed by FBI agent Gwinn that Plaintiff would be charged with bank robbery.

24. On January 8, 1982, Defendant Eichenlaub sought oral approval from Deputy Commissioner DeRamus of the Pennsylvania Bureau of Corrections to transfer Plaintiff Yurky to a state correctional facility on the basis of an emergency situation. The evidence presented to Deputy Commissioner DeRamus by Defendant Eichenlaub to secure oral approval for an emergency transfer included: (A) Plaintiff Yurky's bail was raised to $300,000; (B) Plaintiff Yurky had alleged ties to the Palestine Liberation Organization; (C) Plaintiff Yurky had an alleged passport to Lebanon; (D) Plaintiff Yurky was allegedly experienced in martial arts; (E) Plaintiff Yurky would allegedly be charged in the future with bank robbery;

and (F) Clinton County Jail is an old facility.

25. Approval was granted to Defendant Eichenlaub to transfer Plaintiff Yurky to Huntingdon.

CANDOR, YOUNGMAN, GIBSON & GAULT

By /s/ John C. Youngman, Jr.
John C. Youngman, Jr.
I.D. No. 07582
Attorneys for Defendant
Harry W. Eichenlaub

(Title Omitted in Printing)

RESPONSE OF PLAINTIFF YURKY TO DEFENDANT EICHENLAUB'S STATEMENT OF UNDISPUTED MATERIAL

In accordance with the provisions of M.D. Pa. 401.4, Plaintiff Yurky, pro se, submits the following response to Defendant Eichenlaub's Statement of Undisputed Material.

1. Agreed

2. Agreed

3. Agreed

4. Agreed

5. Agreed

6. Disagreed. BC-141D did not state that Plaintiff would be placed in Administrative Custody (Maximum).

7. Agreed

8. Disagreed. Plaintiff did not become aware of any document stating that

the FBI would be arriving to take Plaintiff for arraignment on bank robbery charges until the discovery phase of this civil action.

9. Agreed

10. Agreed

11. Agreed

12. Disagreed that Plaintiff was told he was a security risk. Plaintiff was merely informed that he was being held for Federal authorities and that those authorities would be there that day or the next. Agreed that Plaintiff was not informed of any underlying reasons for the transfer.

13. Agreed that the JBC-7X stated that Plaintiff was a security risk; however, it is denied that the document recommends a custodial classification of "maximum security." The "maximum

security" merely reiterates Plaintiff's custodial classification at the county facility --- the recommendations section on the JBC-7X form is blank.

14. Agreed

15. Disagreed. The PRC removed Yurky from Administrative Custody (Investigative) and placed him in Administrative Custody (Maximum).

16. Plaintiff is without knowledge or information sufficient to admit or deny the statements contained in this paragraph.

17. Plaintiff is without knowledge or information sufficient to admit or deny the statements contained in this paragraph.

18. Disagreed. Plaintiff was never charged with robbery. On May 18th, 1982, Plaintiff began trial on conspiracy and

complicity actions. On May 19th, 1982, Plaintiff was convicted of conspiracy and criminal complicity and is presently serving a sentence at SCI-Huntingdon.

19. Agreed

20. Plaintiff is without knowledge or information sufficient to admit or deny the statements contained in this paragraph.

21. Disagreed.

22. Plaintiff is without knowledge or information sufficient to admit or deny the statements contained in this paragraph.

23. Plaintiff is without knowledge or information sufficient to admit or deny the statements contained in this paragraph.

24. Plaintiff is without knowledge or information sufficient to admit or deny

the statements contained in this paragraph.

25. Plaintiff is without knowledge or information sufficient to admit or deny the statements contained in this paragraph.

Respectfully submitted,

/s/ David Yurky
David Yurky, pro se

(Title Omitted in Printing)

AFFIDAVIT OF HARRY W. EICHENLAUB

Harry W. Eichenlaub, being duly sworn according to law, deposes and swears that the following facts are true and correct to the best of his knowledge, information and belief:

1. Eichenlaub was informed by Deputy Commissioner DeRamus on January 8, 1982, that inasmuch as this was an emergency transfer, "a hearing will be held later."

2. Clinton County Jail was and is a minimum security institution, as is Centre County Jail.

3. On May 19, 1982, Plaintiff began trial on the robbery, conspiracy, and criminal complicity actions. On May 19, 1982, he was convicted of these crimes

and is presently serving a sentence at SCI-H.

4. All of the allegations of Plaintiff's Complaint alleging deprivation of constitutional rights and right to any kind of liability are denied by Defendant Eichenlaub's Answer.

5. Eichenlaub received permission to transfer Plaintiff to SCI-H while Plaintiff was at a Preliminary Hearing at State College, Pennsylvania.

6. Eichenlaub harbors no ill will toward the Plaintiff, and at all times, he has acted the good faith belief that his actions were lawful.

/s/ Hary W. Eichenlaub
Harry W. Eichenlaub

Sworn to and subscribed before me
this 4th day of May, 1984.

/s/ Robin L. Cillo
Robin L. Cillo, Notary Public
Williamsport, Lycoming County, Pa.
My Commission Expires
October 12, 1987

(Title Omitted in Printing)

DEFENDANT HARRY EICHENLAUB'S ANSWERS TO INTERROGATORIES OF PLAINTIFF

Plaintiff pursuant to Rule 33 of the Federal Rules of Civil Procedure now serves this set of interrogatories upon Harry Eichenlaub, defendant in this action, for response within 45 days after this service.

Supply the specific source of information including name, date, capacity and identity of each source and/or party which defendant has referred to in assisting defendant with responses, and not merely that information which is based upon personal knowledge.

These interrogatories shall be responded to in full, each, every and all, and shall be responded hereto under

the penalties of 28 U.S.C. section 1746 and 18 U.S.C. section 1001.

It shall be the obligation of said Defendant, pursuant to rule 26(e)(1-3) of the Federal Rules of Civil Procedure to supplement his responses as to any and each and all interrogatories which can be supplemented with information which was not in Defendant's possession prior to the time of service of his responses and the time of trial hereto.

1. Who supplied you with the information that Plaintiff was a heroin addict?

ANSWER: Pennsylvania State Police Troopers Robert Drumm, Steven Toboz and Richard Rodgers.

2. Specify upon what evidence you based your contention that Plaintiff

allegedly had ties with the Palestine Liberation Organization?

ANSWER: I obtained this information both from Pennsylvania State Police Troopers Robert Drumm and Steven Toboz and from State College Policemen Detective Caster and Detective Musser.

3. Who, besides yourself, was involved in the decision-making process determining Plaintiff's status as a security risk; and at what point was that actual determination made?

ANSWER: Beside myself, Assistant Warden Robert A. Miller and Judge Carson Brown were involved in the decision-making process determining Plaintiff's status as a security risk. The determination was made on January 8, 1982, after having been informed on December 23, 1981, by Troopers Drumm and Toboz

that Plaintiff used martial arts, was connected with the Palestine Liberation Organization and had been held on high bail. On January 8, 1982, I was informed by Detective Musser of the State College Police Department that Plaintiff had an alleged passport to Lebanon and that there were new charges and bail would be set at $200,000.00 more. In addition, FBI agent Gwinn told me he was going to file bank robbery charges against Mr. Yurky on January 10, 1982.

4. Why did you not arrange for Plaintiff to be detained in some other county facility if you felt your own facility was inadequate?

ANSWER: I attempted to have Plaintiff placed in Rockville State Correction Institution, 36 miles away, but Deputy Commissioner DeRamus told me

that was not secure enough. He told me to take Mr. Yurky to Huntingdon State Correction Institution. In addition, I contacted Warden Bell in Bellefonte, Centre County. He wanted $50.00 per day for the incarceration of Plaintiff. Warden Bell also told me that he had three (3) inmates escape in September, 1981, and that his jail wasn't much more secure than mine.

5. What evidence was presented to Judge Carson Brown in his granting the Court Order confining Plaintiff at Huntingdon, and what other alternatives were discussed?

ANSWER: I informed Judge Carson Brown that new charges had been filed against Mr. Yurky, that bail totaled Three Hundred Thousand ($300,000.00) Dollars, that information from law enfor-

cement officers was obtained that Mr. Yurky had Palestine Liberation Organization ties and had an alleged passport to Lebanon, and that the FBI had informed me of the bank robbery charges to be brought. I felt that our jail was not secure enough, and Judge Brown agreed.

6. Were there ever any questions about the legality of sending Plaintiff to a maximum security prison without a trial?

ANSWER: Yes. Mr. DeRamus told me we could send Mr. Yurky on an emergency transfer. I felt if Mr. Yurky was held an additional 24 hours, I would be placing my staff and family in a dangerous position. Mr. DeRamus (Deputy Commissioner) agreed.

7. What evidence was presented to Deputy Commissioner Erskind DeRamus in obtaining his oral approval for Plaintiff's transfer?

ANSWER: (1) That Plaintiff's bail had been raised to Three Hundred Thousand ($300,000.00) Dollars.

(2) That mention had been made of a Palestine Liberation Organization connection of Plaintiff.

(3) That there was information that Plaintiff had a passport to Lebanon.

(4) That Plaintiff performed martial arts.

(5) That Plaintiff would be charged certainly with bank robbery.

(6) That our facility is old and our escape record was not good.

8. Did Deputy Commissioner DeRamus ever express to you any hesitation to send a pre-trial detainee to Huntingdon Penitentiary?

ANSWER: Yes. He said he would call back. In less than one-half hour he called me and told me to take Mr. Yurky to Huntingdon State Correctional facilities where they would be expecting us.

9. Once Plaintiff's bail was reduced, did you then ever consider returning his pre-trial detention to the Clinton County facility or any other county facility?

ANSWER: No. I was never notified of the bail reduction of Plaintiff. Further, bail was not the sole reason for the transfer of Plaintiff. Furthermore, I never received any information that any

of the allegations set forth in answer to Interrogatory 7 had been unfounded.

10. What evidence was presented by State College police, or any other police department, to justify denial of Plaintiff's visiting privileges on Sunday, January 3, 1982?

ANSWER: Plaintiff was not denied visiting privileges on January 3, 1982. Our records show that a visiting list at that time had not been verified. Mr. Yurky's family was accepted on the list. Two non-relatives were being checked out, but no word had been received as of January 3, 1982.

11. Were there any arrangements made with local or state police for any special security arrangements while Plaintiff was being detained at Clinton County jail?

ANSWER: Clinton County jail is a minimum security jail. Other than the security arrangements that we are able to use for every inmate, we used that procedure which was normally used at the jail. The obtaining of Mr. Yurky's transfer was made for the purpose of security.

12. Was any evidence ever presented you concerning Plaintiff's alleged knowledge of martial arts?

ANSWER: Yes.

13. To what people, conversations or documents are you referring when you stated you were "furthermore advised by the State Police officials of the dangerous propensities of the Plaintiff"?

ANSWER: (1) Conversation with State Police Troopers Drumm, Rogers and Toboz that there was a possible PLO connection

of Plaintiff and that Plaintiff had a passport to Lebanon.

(2) Conversation with the state police referred to above that Mr. Yurky was a heroin and drug user and that he hung around with many "dopers".

(3) Conversations with the above State Troopers Drumm and Toboz that Mr. Yurky was an expert in martial arts, and that I should advise my staff to be careful as he could "pick your eyes out in seconds and be gone".

14. Was the Lycoming County prison checked into on a continuing basis, allowing for the possibility that Plaintiff could at some subsequent time have been transferred to their county facility rather than his continued detention in a state penitentiary without trial?

ANSWER: Lycoming County prison is a minimum security prison, so that Plaintiff would not properly have been transferred to that prison.

15. What information did you receive from the FBI in addition to notification of possible Federal Bank Robbery charges, and what agent supplied it?

ANSWER: None other than that of Agent Gwinn of the State College office that it was alleged that Plaintiff had a Palestine Liberation Organization connection.

16. What inquiry was made into the source of information concerning Plaintiff's alleged Middle East connections and alleged dangerous propensities?

ANSWER: Investigations are handled by law enforcement officials, and I must rely on their information. This infor-

mation was received from the Pennsylvania State Police and State College Police as previously set forth in answer to previous Interrogatories incorporated herein by reference.

17. What tangible evidence in your possession indicated that Plaintiff would not be available for trial?

ANSWER: None other than the high amount of bail placed for Plaintiff's detention. It was obvious to me that the magistrate did not trust Plaintiff.

18. Who provided you with information supporting the contention that Plaintiff had no ties to Centre County?

ANSWER: No one other than Plaintiff who gave us the address of his family.

19. What is the precedent within Clinton County for sending a pre-trial

detainee, not on state parole, to a state maximum security penitentiary?

ANSWER: This is done only when a security risk is present. I believed Plaintiff to be a security risk and the Judge and Mr. DeRamus agreed.

20. Were you familiar, on January 8, 1982, with the circumstances surrounding Joe Dobbs' involvement with various police agencies and his role in the alleged attempted robbery December 23, and what information had you received?

ANSWER: No. No information was received.

21. Was publicity from newspaper and radio accounts of Plaintiff's alleged criminal behavior a factor in your decision to transfer him to Huntingdon?

ANSWER: No.

22. Specify that information provided you by State College police concerning Plaintiff's community background or other alleged involvement?

ANSWER: They told me that Plaintiff was being charged with armed robbery in their community, and that Plaintiff had PLO connections and a passport and that the FBI was going to charge Plaintiff with bank robbery. Also, they provided me with the information that Plaintiff was an expert in martial arts and was a drug and heroin user.

23. Did you at any time prior to Plaintiff's January 8 preliminary hearing attempt to interview him to make your own personal determination as to his character?

ANSWER: Yes.

24. Once Plaintiff's bail was

reduced and no Federal charges were lodged, did you then consider returning him to a county facility to await trial?

ANSWER: See answer to Interrogatory 9 incorporated herein by reference.

25. What factual information had you received from state police officials concerning Plaintiff's actual behavior the night of December 23?

ANSWER: None.

26. What was the evaluation of Plaintiff's behavior during the seventeen days (December 23 to January 8) he was detained in the Clinton County jail?

ANSWER: Plaintiff watched every move of the staff when unlocking the gates. He and co-defendant Seiler would get together at break and game time and look things over. I observed both checking the lock at the rear gate as if they were

planning something. Mr. Yurky would complain alot. The staff remarked to me that they feared an escape attempt by both Mr. Yurky and Mr. Seiler.

27. Was this evaluation (in Interrogatory No. 26) a factor in your decision to send Plaintiff to Huntingdon?

ANSWER: Yes.

28. Were there any discussions, subsequent to January 8, with Judge Carson Brown concerning a re-evaluation of Plaintiff's pre-trial detention?

ANSWER: No.

29. Was any kind of report filed with the Bureau of Corrections concerning an explanation for Plaintiff's pre-trial detention in a state penitentiary?

ANSWER: Yes.

30. Specify any information concerning Plaintiff conveyed from Clinton

County authorities to Huntingdon prison authorities either by document, phone or via unnamed Clinton County jail guards?

ANSWER: I sent the standard JBC-7X form. The Deputy Commissioner made arrangements for Mr. Yurky to be accepted at Huntingdon.

31. Was the Clinton County policy of accepting prisoners, and funding for those prisoners, from other overcrowded county facilities a factor in the decision to transfer Plaintiff to Huntingdon?

ANSWER: No.

32. What are the job qualifications for the position of warden of Clinton County jail?

ANSWER: A warden should have either a law enforcement background or experience in the criminal justice field. He should attend a management training

course. A warden must stand inspection yearly from the State Bureau of Corrections. A warden must administer the standards and goals set by the Bureau of Corrections.

33. What are your qualifications and training for that position?

ANSWER: I have had sixteen and one-half (16 ½) years experience in law enforcement, including that of going from patrolman to lieutenant in the Lock Haven Police Force between the years of 1964 and 1971. I was chief of police of the Jersey Shore Regional Police Department, a ten-man department, for six and one-half (6 ½) years. I was chief of police at Jersey Shore from 1971 to 1978. I was chief of police of Renovo Borough for two months prior to becoming warden of the

Clinton County prison, and I have been warden since October, 1979.

I attended a Polex course at Penn State. I attended the new warden's management school at Dallas in October of 1979. I have attended five (5) warden's seminars since October of 1979.

34. What sections of what documents were you acting under when you authorized Plaintiff's transfer to Huntingdon?

ANSWER: The Administrator's Manual Volume 7. OM-102.

35. Was the Constitutionality of Plaintiff's transfer to Huntingdon ever considered by you or anyone in your presence?

ANSWER: Yes.

36. Why was Plaintiff not given some type of hearing in order to hear, discuss and possibly refute some of the allega-

tions against him before being transferred to a state penitentiary?

ANSWER: Because at the time (a Friday) Plaintiff was being transferred to the magistrate's office in Centre County for the filing of new charges. I was also advised that the FBI was to file charges against Plaintiff for bank robbery the following Monday morning. No hearing was necessary on an emergency transfer.

37. Was detention of Plaintiff in Centre County jail in Bellefonte ever considered as a rational alternative to the state penitentiary?

ANSWER: Yes. Also see answer to Interrogatory No. 4 incorporated herein by reference. The Bellefonte jail was

not much more secure than the Clinton County jail.

CANDOR, YOUNGMAN, GIBSON & GAULT

By /s/ John C. Youngman, Jr.
John C. Youngman, Jr.
Attorneys for Defendant
Harry W. Eichenlaub

HARRY W. EICHENLAUB, being duly sworn according to law, deposes and swears that the facts set forth to the within Defendant Harry Eichenlaub's Answers to Interrogatories of Plaintiff are true and correct to the best of his knowledge, information and belief.

/s/ Harry W. Eichenlaub
Harry W. Eichenlaub

Sworn to and subscribed before me
this 4th day of April, 1983.

/s/ Richard K. Sweeley
Richard K. Sweeley, Notary Public
My Commission Expires
1st Monday January, 1984

(Title Omitted in Printing)

AFFIDAVIT OF DAVID YURKY

I, David Yurky, do hereby state under penalty of perjury that the following is true and correct based upon my personal knowledge:

1. I am the Plaintiff in this case and was a pretrial detainee at all times relevant to this civil action.

2. During late January, 1982, due to the necessity of locating material witnesses for an upcoming preliminary hearing, I appealed on multiple occasions to the various block officers in the R.H.U., predominantly to the block sergeants on morning and evening shifts.

3. Also during late January, 1982, due to the necessity of locating character witnesses for an upcoming bail-

reduction hearing, I appealed on multiple occasions to the various block officers in the R.H.U., predominantly to the block sergeants on morning and evening shifts.

4. On all such appeals for telephone calls, I was instructed to contact Deputy Superintendent of Operations E.C. Wicker, as I was told that all calls from the R.H.U. must be approved by the Deputy of Operations.

5. Therefore, I then used the BC-135A form entitled "Inmate's Request To Staff Member" to convey my legal situation to Deputy Supt. Wicker. I asked to be able to contact my two attorneys; I asked to be able to contact character witnesses for an upcoming bail-reduction hearing; I asked to be able to contact material witnesses for my upcoming preliminary hearing.

6. I received no response from Deputy Wicker to my request.

7. I again used the BC-135A form to convey to Deputy Wicker that during a trip to Court for a preliminary hearing which was postponed, I was informed by a State College detective named David Caster that it was his understanding that no Federal charges would be filed against me. I relayed this information via BC-135A to Deputy Wicker and explained that since the sole reason mentioned at my January 11, 1982 P.R.C. hearing was the possibility of Federal charges and that since it definitely appeared that no charges would be forthcoming, I asked for release to general population in order to engage in defense preparation.

8. I received no response from Deputy Wicker to my request.

9. At a subsequent Court appearance in Clinton County, my attorney Martha Riegel informed me that she had attempted to contact me by phone at SCIH on several occasions, but was told that SCIH policy did not permit her to contact me.

10. At a subsequent Court appearance in Centre County, my attorney Amos Goodall informed me that he had attempted to contact me by phone at SCIH on several occasions, but was told that SCIH policy did not permit him to contact me.

/s/ David Yurky
David Yurky, pro se

26 April, 1984

/s/ Richard I, Norris
Richard I. Norris, Notary
Smithfield Twp., Huntingdon County
My Commission Expires JUNE 4, 1984
Member, Pennsylvania Association of Notaries

(Title Omitted in Printing)

AFFIDAVIT OF DAVID A. YURKY

I, David A. Yurky, being duly sworn according to law, hereby state that the following facts are true and correct, based upon my own personal knowledge.

1) On December 23, 1981, I was arrested by members of the Pennsylvania State Police and charged with criminal conspiracy and criminal complicity.

2) After my arrest, I was committed to the custody of the Clinton County Jail as a pretrial detainee awaiting disposition of criminal charges.

3) On January 8, 1982 a preliminary hearing was held, at which time the District Justice found a prima facie case against me.

4) On January 8, 1982 I was

arrested by State College police officials and additionally charged with two counts of robbery, for which bail was raised an additional two hundred thousand ($200,000).

5) On January 8, 1982 I was transferred to the SCI at Huntingdon.

6) Prior to my transfer on January 8, 1982, I was not provided a notice, oral or written, by Harry Eichenlaub or anyone, apprising me that there was an impending transfer or the specific justifications underlying that transfer.

7) Prior to my transfer on January 8, 1982, I was not provided a hearing, of any type, by anyone, in order that I would have an opportunity to be heard in opposition to the transfer.

8) At no time prior to, or after my transfer to Huntingdon, did I ever